

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

REBECCA SWEARINGER and KIM
FREEMAN,

Plaintiffs,

v.

PASKENTA BAND OF NOMLAKI INDIANS
TRIBAL BUSINESS COUNCIL,

Defendant.

No. C 13-2642 CW

ORDER DENYING
MOTION FOR LEAVE
TO APPEAR PRO HAC
VICE (Docket No.
25)

Joseph Kitto, an active member of the District of Columbia bar, moves for leave to appear pro hac vice. His motion is denied.

Civil Local Rule 11-3(b) provides that "an applicant is not eligible for admission to practice pro hac vice if the applicant: (1) Resides in California; or (2) Is regularly engaged in the practice of law in the State of California." Kitto is not only a California resident but also regularly practices law in the state. He has listed a California mailing address and a California phone number on several filings in this case and has appeared on behalf of litigants in at least four other cases in this district since 2008. See Harrison, et al. v. Robinson Rancheria Band of Pomo Indians Business Council, Case No. 13-1413, Docket No. 10 (granting Kitto leave to appear pro hac vice); Mishewal Wappo Tribe of Alexander Valley v. Salazar, Case No. 09-2502, Docket No. 8 (same); Robinson Rancheria of Pomo Indians of Cal. v. Quitiquit et al., Case No. 11-4348, Docket No. 29 (same); Me-Wuk Indian Cmty. of the Wilton Rancheria, et al. v. Kempthorne, et

1 al., Case No. 07-5706, Docket No. 16 (same). During the past two
2 months, he has filed briefs in two of these cases. See Harrison,
3 Case No. 13-1413, Docket No. 26; Mishewal Wappo Tribe, Case No.
4 09-2502, Docket No. 190.

5 In the present case, Kitto waited more than two months after
6 the complaint was filed before he moved to be admitted pro hac
7 vice; even then, he did so only after this Court directed him to
8 file such a motion. See Order Granting Motion to Dismiss, Docket
9 No. 27 at 10. During the interim, he has filed several documents
10 in this matter, including Plaintiffs' opposition to a motion to
11 dismiss, and appeared at an ADR scheduling telephone conference on
12 Plaintiffs' behalf. Declaration of Bradley G. Bledsoe Downes
13 ¶ 18. Kitto also failed to respond to a letter from Defendant's
14 counsel notifying him that he was not admitted to practice in this
15 district and not eligible to be admitted pro hac vice. Id. ¶ 15.

16 In sum, Kitto has not established that he is eligible for
17 admission pro hac vice. He may renew his motion if he can show
18 that he "(i) has been a resident of California for less than one
19 year; [and] (ii) has registered with, and completed all required
20 applications for admission to, the State Bar of California."
21 Civil L.R. 11-3(b)(2).

22 CONCLUSION

23 For the reasons set forth above, Kitto's motion for leave to
24 appear pro hac vice (Docket No. 25) is DENIED. Kitto may not
25 appear in this matter unless he becomes a member of the bar of
26 this Court or establishes that he satisfies the requirements of
27 Civil Local Rule 11-3(b)(2) outlined above. The clerk shall
28 provide a copy of this order to Judge Tigar and Judge Davila, both

1 of whom are currently assigned to cases in which Kitto has
2 recently appeared pro hac vice. See Harrison, Case No. 13-1413
3 JST; Mishewal Wappo Tribe, Case No. 09-2502 EJD.

4 IT IS SO ORDERED.

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6 Dated: 8/28/2013


CLAUDIA WILKEN
United States District Judge

7 cc: JST, EJD
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United States District Court
For the Northern District of California